

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MAY 16, 2023**

**A regularly scheduled meeting of the Sussex County Council was held on Tuesday, May 16, 2023, at 10:00 a.m., in Council Chambers, with the following present:**

<b>Michael H. Vincent</b>	<b>President</b>
<b>John L. Rieley</b>	<b>Vice President</b>
<b>Cynthia C. Green</b>	<b>Councilwoman</b>
<b>Douglas B. Hudson</b>	<b>Councilman</b>
<b>Mark G. Schaeffer</b>	<b>Councilman</b>
<b>Todd F. Lawson</b>	<b>County Administrator</b>
<b>Gina Jennings</b>	<b>Finance Director</b>
<b>J. Everett Moore, Jr.</b>	<b>County Attorney</b>

**The Invocation and Pledge of Allegiance were led by Mr. Vincent.**

**Call to  
Order**

**Mr. Vincent called the meeting to order.**

**M 222 23  
Approve  
Agenda**

**Mr. Lawson reported that the following items could be removed from today's agenda under Hans Medlarz, Items 3 & 4, under Grant Requests Items 4 & 6 and under 1:30 p.m. Public Hearings Change of Zone No. 1976 and Change of Zone No. 1977. A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to approve the Agenda, as amended.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Minutes**

**The minutes from May 9, 2023, were approved by consensus.**

**Corre-  
spondence**

**Mr. Moore read correspondence received from the Greater Lewes Foundation and First State Community Action Agency thanking Council for their grants.**

**Public  
Comments**

**Public comments were heard.**

**Mr. Dale Smith, Board President of Family Promise of Southern Delaware and member of the Sussex Housing Group spoke about the need of affordable housing in Sussex County.**

**Presentation**

**Ms. Patti Grimes, Executive Director from the Joshua M. Freeman**

**Joshua M. Freeman** Foundation provided an update to the Council on the foundation. She shared the foundation's purpose, vision, and mission. Ms. Grimes discussed the history of the foundation.

Ms. Grimes reported that a large mobile stage has been purchased which has allowed for more tourism and programs. The foundation is a 501(c) 3 organization that has created an evolving arts destination. In addition, over 750,000 patrons have enjoyed live arts experiences with over 70 free and paid shows a season (June 1 though September 15). Also, they are partners with school districts in Sussex, Worcester, and Wicomico counties for free diverse, layered arts in education programs. The foundation is committed to presenting diverse arts and adapting to the community that they serve.

Ms. Grimes reported that the foundation offers year-round, high-quality, diverse arts experiences at no cost to participants/attendees. This includes four distinct programs designed to reach different audiences, including children and their families, and the underserved community.

Ms. Grimes stated that in 2022, more than 260 volunteers contributed their time, talent, and energy. She added that volunteers serve many roles in the venue and in the arts access initiatives. Their service allows the foundation to leverage their dollars for their mission. Since the inception of the volunteer program in 2008, volunteers have given 121,715 hours of service with a total of \$3.1 million in value.

In 2022, patrons visited the Freeman Arts Pavilion from 47 different states. This provides an economic impact to the County and with the continued growth, it allows for continued job creation.

The future of the Freeman Arts Pavilion expansion, a phase approach was discussed. A five-year plan for building a permanent state while presenting arts each season is in the works. In addition, they plan to continue to maintain and grow arts programming at the venue. A focus on growing audiences and the art, continue to build relationships with schools and community groups to bring art opportunities directly to communities and continue to work with artist to develop new and unique ways to offer art experiences to local communities.

**Discussion & Possible Action/Tributes, Resolutions & Proclamation** President Vincent led a discussion related to Tributes, Resolutions and Proclamations. Mr. Vincent stated that he had some concerns about the topic and how it was being done. He added that it needs to be consistent for everyone. A copy of the proposed policy was included in the packet that is being recommended.

Mr. Vincent reported that in the past, in the Rules and Procedures, Council approved all Tributes and Proclamations at the County level. About a year later, that process stopped. Mr. Vincent believes that it is at a point where the Council needs to go back to somewhat of what was done in the past. He added that he has done all of the research and has spoken with

**Discussion  
& Possible  
Action/Tri-  
butes, Resol-  
utions & Pr-  
oclamation  
(continued)**

representatives from Kent County, New Castle County and State Legislators as well as some towns to see what they do. He added that he believes that there needs to be a set of standards so that there is consistency and create guardrails of what these documents are for so that they have some meaning.

Mr. Vincent reviewed the policy that consists of three tiers. Tier 3 is a congratulatory letter; a handwritten note or letter from a Council member. Tier 2 consists of Tributes and Memoriams. A Memoriam will be to celebrate someone who has contributed many things to benefit Sussex County. A Tribute would be from an individual Council member; a sample was shown. Tier 1 is reserved for Proclamations which come from the entire County Council. If one is requested, it would be reviewed by the County Administrator and would be included on the agenda as a consent item for consideration. Mr. Vincent stated that anything that comes from the entire County Council would be voted on and then signed by the County Clerk, Council President and the member who requested the Proclamation.

Mr. Schaeffer stated that he agrees with Mr. Vincent that there should be some formality to the process. He believes that the Tribute and Proclamation designs are both within keeping of respect to the citizens of the County.

Mr. Vincent reported that changes would need to be made to the policies and procedures. Under Rule 4, under agenda, it would need to be edited to allow this item to be put on the agenda for a Proclamation. In addition, under Rule 11A and 11A. 1 would need to be created.

**M 223 23  
Adopt Policy**

A Motion was made by Mr. Vincent, seconded by Mr. Hudson to Adopt the policy as presented.

**Motion Adopted: 4 Yeas, 1 Nay**

**Vote by Roll Call: Mrs. Green, Nay; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**M 224 23  
Adopt  
Amended  
Rules of  
Procedures**

A Motion was made by Mr. Vincent, seconded by Mr. Rieley to Adopt the amended Rules of Procedure.

**Motion Adopted: 4 Yeas, 1 Nay**

**Vote by Roll Call: Mrs. Green, Nay; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Committee  
Appointme-  
nts/Aging &**

Mr. Lawson reported that appointments are needed for the Advisory Committee on Aging and Adults with Physical Disabilities. The appointments include Cathy Parker – District 1, Helen Pase – District 1,

**Adults with Physical Disabilities** Fran Smith – District 2, Linda Rogers – District 2, Scott Phillips – District 3, Linda Forte – District 4 and Jamie Magee – District 5. Mr. Lawson reported that they serve a two-year term and all are willing to serve again.

**M 225 23 Appoint Committee Members** A Motion was made by Mr. Hudson, seconded by Mr. Rieley, that be it moved that Sussex County Council reappoints the respective members as presented to the Aging Committee effective immediately for a term of two year or until May 2025.

**Motion Adopted:** 5 Yeas

**Vote by Roll Call:** Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea

**Administrator's Report** Mr. Lawson read the following information in his Administrator's Report:  
**Employee Cleanup**

Sussex County conducted its third annual Keep DE Litter Free event on Friday, May 5<sup>th</sup>. I'm pleased to report that more than a dozen employees took part in this year's event picking up trash and other debris along roadways in the Georgetown and Millsboro areas. Staff that took part collected some 55 bags – an entire truckload – of trash during the three-hour cleanup event. I want to thank staff who participated in doing their part to keep our community clean, and we look forward to next year's event.

[Attachments to the Administrator's Report are not attached to the minutes.]

**Second Quarter Employee Recognition** Karen Brewington reported that there were 21 submissions for the second quarter shining star program. The Shining Star Committee selected Rachel Fiersetin-Noguera, Library Assistant II at the South Coastal Library and Bernadette Hemingway, Library Assistant III at the South Coastal Library. They were congratulated for their accomplishments.

**Amendment to Tyler Contract/ Reassessment Project** Chris Keeler, Director of Assessment presented an amendment to the Tyler Contract for the Reassessment Project for Council's consideration. Mr. Keeler reported that challenges in the labor market have caused delays in project activities including data collection and data entry. The original date for completion of the project was February 15, 2024. The amendment to the contract would extend that by one year to February 15, 2025.

Mrs. Green asked if any preliminary numbers have been reviewed for the project. Ms. Mary Nolby from Tyler Technologies reported that there is no numbers for evaluation yet. She added that they need to get the data mailers sent out to property owners first. She further explained the process

- Amendment to Tyler Contract/ Reassessment Project** and how it will take place.
- M 226 23 Approval to Extend Tyler Technologies** It was pointed out that when the field workers go out to the locations, they are not assigning a value and that will not be completed until everything is completed. Ms. Nolby explained that during the process, it is understood that the market does change; sales will continue to be reviewed. Therefore, nobody will be at a disadvantage and all properties will be treated equally.
- A Motion was made by Mr. Hudson, seconded by Mr. Rieley, be it moved that Sussex County Council extend the original contract with Tyler Technologies by one year to complete the real property reassessment project for Sussex County.
- Motion Adopted: 5 Yeas**
- Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea**
- Land Survey & Mapping Contract** Hans Medlarz, County Engineer presented an increase approval of FY2023 not-to-exceed costs for the land survey and mapping services contract for Council's consideration. Mr. Medlarz reported that multiple County survey projects are now moving forward simultaneously, and the cap may be exceeded prior to the availability of budgeted FY24 funds.
- M 227 23 Approve Land Survey & Mapping Contract Increase** A Motion was made by Mr. Hudson, seconded by Mr. Rieley, be it moved based upon the recommendation of the Sussex County Engineering Department that the not-to-exceed cost associated with land survey mapping services contract be increased for FY23 by \$40,000 for a total annual not-to-exceed cap of \$160,000.
- Motion Adopted: 5 Yeas**
- Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea**
- Lochwood Extension of SCUSSD Recommendation** Hans Medlarz, County Engineer presented a recommendation to reject bids and to re-bid for the Lochwood Community Area Expansion of the Unified Sanitary Sewer District for Council's consideration. Mr. Medlarz reported that invitations to bids were advertised in the local newspaper and were available on the County's website. Four bids were received of which all were significantly higher than the available funding. The department is recommending for Council to reject all the bids and the contract be value engineered and rebid.
- M 228 23 Approve Rejection of** A Motion was made by Mr. Rieley, seconded by Mr. Hudson, be it moved based upon the recommendation of the Sussex County Engineering Department that all bids for contract S22-07 Lochwood Sewer Expansion

**Bids & Re-bid**

be rejected and that the contract be value engineered and rebid as soon as possible.

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Old Business/  
Ord. 22-05**

Under Old Business, Jamie Whitehouse, Planning and Zoning Director presented a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP ELEMENT OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 334-12.00-16.04” (property lying on the west side of John J. Williams Highway [Route 24], approximately 0.25 mile southwest of Mulberry Knoll Road (S.C.R. 284) (911 Address: N/A) (Tax Parcel: 334-12.00-16.04)

The County Council held a Public Hearing on the Proposed Ordinance on July 26, 2022. On August 30, 2022, the application was discussed by the County Council and action was deferred for further consideration.

**M 229 23  
Adopt Ord.  
No. 2922/  
Ord. 22-05**

A Motion was made by Mr. Schaeffer, seconded by Mrs. Green, to Adopt Ordinance No. 2922 entitled “AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP ELEMENT OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 334-12.00-16.04” for the reasons given by the Planning and Zoning Commission for the reasons given by the Planning and Zoning Commission as follows:

1. The parcel is 21.62 acres of land. A portion of it is designated as the “Commercial Area” according to the Future Land Use Map. The rest of it is designated as “Coastal Area”. This results in the property having two different designations according to the Map. Given the differing rules for the Commercial Area and the Coastal Area, it is appropriate for this property to have one classification on the Future Land Use Map.
2. With the exception of the Saddle Ridge development to the west of this site (which is developed as an MR Medium-Density residential subdivision that is itself inconsistent with its own “Commercial Area” designation), all of the properties that are in the area and that have developed residentially have the “Coastal Area” designation. It is appropriate to bring this entire site under the single “Coastal Area” designation.
3. This revision to the Future Land Use Map will not adversely affect neighboring properties, area roadways, or future land-use planning in the area.
4. This revision of the Future Land Use Map is appropriate given the particular circumstances involved, including the fact that the property has two different Area designations according to the current Future Land Use Map and the fact that the property is in the

**M 229 23  
Adopt Ord.  
No. 2922/  
Ord. 22-05  
(continued)**

**vicinity of other Coastal Areas that have developed residentially according to the Future Land Use Map. When several factors like this exist, the consideration and approval of an amendment to the Future Land Use Map is appropriate.**

**Motion Adopted: 4 Yeas, 1 Nay**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Nay;  
Mr. Vincent, Yea**

**Old  
Business/  
CZ1949**

**Under Old Business, Jamie Whitehouse, Planning and Zoning Director presented a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 21.62 ACRES, MORE OR LESS” (property lying on the west side of John J. Williams Highway [Route 24], approximately 0.25 mile southwest of Mulberry Knoll Road [S.C.R. 284]) (911 Address: N/A) (Tax Parcel: 334-12.00-16.04) filed on behalf of J.G. Townsend Jr. & Co.**

**M 230 23  
Approve  
CZ1949/  
DENIED**

**A Motion was made by Mr. Schaeffer, seconded by Mrs. Green to Adopt an Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 21.62 ACRES, MORE OR LESS” for the reasons given by the Planning and Zoning Commission numbered 1-7.**

**Motion DENIED: 2 Yeas, 3 Nays**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Nay;  
Mr. Hudson, Nay; Mr. Rieley, Nay;  
Mr. Vincent, Yea**

**Old  
Business/  
CU2304**

**Under Old Business, Jamie Whitehouse, Planning and Zoning Director presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (84 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 21.62 ACRES, MORE OR LESS” (property lying on the west side of John J. Williams Highway [Route 24], approximately 0.25 mile southwest of Mulberry Knoll Road [S.C.R. 284]) (911 Address: N/A) (Tax Parcel: 334-12.00-16.04) filed on behalf of J.G. Townsend Jr. & Co.**

**M 231 23  
Approve  
CU2304/  
DENIED**

**A Motion was made by Mr. Schaeffer, seconded by Mrs. Green to Adopt an Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (84 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 21.62 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning and Zoning Commission numbered 1-10 with conditions 11 A-P.**

**Motion DENIED: 5 Nays**

**Vote by Roll Call: Mrs. Green, Nay; Mr. Schaeffer, Nay;  
Mr. Hudson, Nay; Mr. Rieley, Nay;  
Mr. Vincent, Nay**

**Grant  
Requests**

**Mrs. Jennings presented grant requests for Council’s consideration.**

**M 232 23  
Town of  
Millsboro**

**A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to give \$5,000 (\$5,000 from Mr. Rieley’s Councilmanic Grant Account) to the Town of Millsboro for Police Department Computer Outfit Assistance.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**M 233 23  
Sussex  
County 4-H  
Exchange  
Group**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give \$2,000 (\$1,000 from Mr. Rieley’s Councilmanic Grant Account and \$1,000 from the Countywide Youth Councilmanic Grant Account) to Sussex County 4-H Exchange Group for their 4-H Exchange with Minnesota 4-H.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**M 234 23  
Town of  
Greenwood**

**A Motion was made by Mrs. Green, seconded by Mr. Hudson to give \$1,400 (\$1,400 from Mrs. Green’s Councilmanic Grant Account) to the Town of Greenwood for their Downtown Revitalization project.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**M 235 23  
Dry Dock  
Recovery**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to give \$3,000 (\$1,000 from Mr. Schaeffer’s Councilmanic Grant Account, \$1,000 Mr. Rieley’s Councilmanic Grant Account, and \$1,000 Mr. Hudson’s Councilmanic Grant Account) to Dry Dock Recovery, Inc. for their HVAC system.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Introduction  
of Proposed  
Ordinances**

**Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENTS VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 46.17 ACRES, MORE OR LESS filed on behalf of Jonathan & Laura Brittingham**

**Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE SUSSEX COUNTY SEWER TIER MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL 533-11.00-23.02”**

**Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL STORAGE FACILITY INCLUDING RV/BOAT STORAGE, THE STORAGE OF COMMERCIAL VEHICLES, AND AN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.95 ACRES, MORE OR LESS filed on behalf of AWH Properties, LLC**

**Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.50 ACRES MORE OR LESS field on behalf of Lori & Jose Solis Marin**

**The Proposed Ordinances will be advertised for Public Hearings.**

**Council  
Member  
Comments**

**There were no Council member comments.**

**M 236 23**

**At 11:00 a.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson to recess the Regular Session, and go into Executive Session to**

- Go Into Executive Session** discuss maters relating to land acquisition and pending/potential litigation.  
**Motion Adopted:** 5 Yeas
- Vote by Roll Call:** Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea
- Executive Session** At 11:11 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus for the purpose of discussing matters relating to land acquisition and pending/potential litigation. The Executive Session concluded at 11:37 a.m.
- M 237 23 Reconvene** At 11:40 a.m., a Motion was made by Mr. Rieley, seconded by Mrs. Green to come out of Executive Session and reconvene the Regular Session.
- Motion Adopted:** 3 Yeas, 2 Absent
- Vote by Roll Call:** Mrs. Green, Yea; Mr. Schaeffer, Absent;  
Mr. Hudson, Absent; Mr. Rieley, Yea;  
Mr. Vincent, Yea
- E/S Action** There was no action relating to Executive Session matters.
- M 238 23 Recess** At 11:41 a.m., a Motion was made by Mr. Rieley, seconded by Mrs. Green to recess until 1:30 p.m. Public Hearings.
- Motion Adopted:** 3 Yeas, 2 Absent
- Vote by Roll Call:** Mrs. Green, Yea; Mr. Schaeffer, Absent;  
Mr. Hudson, Absent; Mr. Rieley, Yea;  
Mr. Vincent, Yea
- M 239 23 Reconvene** At 1:30 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to reconvene.
- Motion Adopted:** 5 Yeas
- Vote by Roll Call:** Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea
- Rules** Mr. Moore read the rules and procedures for public hearings.
- Public Hearing/  
CU2362** A Public Hearing was held on a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE OF HVAC SUPPLY INVENTORY AND COMPANY VEHICLES AND

Public  
Hearing/  
CU2362  
(continued)

**TRAILERS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRES, MORE OR LESS” (property is lying on the east side of Omar Road [Route 54], approximately 726 ft. southwest of Jones Road [S.C.R. 369]) (911 Address: 32414 Omar Road, Frankford) (Tax Map Parcel: 134-10.00-62.10) filed on behalf of Delaware Sitescapes, LLC**

The Planning & Zoning Commission held a Public Hearing on the application on April 20, 2023. At the meeting of May 11, 2023, the Planning & Zoning Commission recommended approval of the application subject to 6 reasons stated and subject to 7 recommended conditions as outlined.

(See the minutes of the Planning & Zoning Commission dated April 20, and May 11, 2023.)

Mr. Jamie Whitehouse, Planning and Zoning Director, presented the Proposed Ordinance.

The Council found that Mr. Alex Burns, Esq. from Baird Mandalas Brockstedt Federico & Cardea was present on behalf of the Applicant, Delaware SiteScapes, LLC. Mr. Burns stated that Mr. Brad Absher is a representative of Delaware SiteScapes but is also associated with TrueNorth who provided the survey for this Application; that the application for a Conditional Use in an Agricultural Residential District (AR-1) was submitted in March, 2022; that the company is an HVAC company who want to store HVAC supplies and company vehicles at the subject property; that the Planning and Zoning Commission unanimously approved the Application; that in the draft minutes of the May 11, 2023 of the Planning Commission, they stated that their first reason for approval of the application was “The site is zoned AR-1. It is in a location where other small business conditional uses exist. In addition, a portion of the property is covered by a utility easement for above-ground electric transmission lines. These circumstances make this property an appropriate location for a small HVAC business and not residential use”; that the parcel is burden by 150-foot-wide utility easement; that a photo was shown of the property; that commercial use on this property would not be the best use; that the memo from Mr. Young, Planner from Sussex County dated March 20, 2023 he concluded that his use is consistent with all uses in the area; that the parcel is located in the Coastal Area; that this would be a small business with approximately 8 employees; that DelDOT has stated that this is diminutive in its impact on traffic; that Section 115-22 of the Code permits Conditional Use for businesses and commercial uses when the purpose of the agricultural and residential district is more fully met by issuing a Conditional Use; that the use is desirable for the general convenience and welfare of the County; that the Planning and Zoning Commission recommended seven reasonable conditions and there are no objections.

There were no public comments.

**M 240 23**  
**Add**  
**Condition H**

**The Public Hearing and public record were closed.**  
**A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to add Condition H to read “No old or inoperable HVAC equipment be stored outside of the building”.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;**  
**Mr. Hudson, Yea; Mr. Rieley, Yea;**  
**Mr. Vincent, Yea**

**M 241 23**  
**Adopt**  
**Ordinance**  
**No. 2923/**  
**CU2362**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley to Adopt Ordinance No. 2923 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE OF HVAC SUPPLY INVENTORY AND COMPANY VEHICLES AND TRAILERS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning and Zoning Commission as follows and as amended by this Council:**

- 1. The site is zoned AR-1. It is in a location where other small business conditional uses exist. In addition, a portion of the property is covered by a utility easement for above-ground electric transmission lines. These circumstances make this property an appropriate location for a small HVAC business and not residential use.**
- 2. The property is located within the Coastal Area according to the Sussex County Comprehensive Plan. Small business uses, like this one, are appropriate within this Area according to the Plan.**
- 3. DelDOT has stated that the traffic generated by this use will be “diminutive”.**
- 4. The proposed use will not have a negative impact on the neighboring properties or roadways.**
- 5. The use is of a public or semi-public character that is desirable for the general convenience and welfare of the area and the County.**
- 6. No parties appeared in opposition to the application.**
- 7. This recommendation is subject to the following conditions:**
  - a. The project shall be used for an HVAC business.**
  - b. There shall be no retail sales occurring on the property.**
  - c. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.**
  - d. Any dumpsters on the site shall be screened from the view of neighboring properties and roadways. The dumpster locations shall be shown on the Final Site Plan.**
  - e. The applicant shall comply with all DelDOT requirements for entrances and roadway improvements.**

**M 241 23  
Adopt  
Ordinance  
No. 2923/  
CU2362  
(continued)**

- f. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.**
- g. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**
- h. No old or inoperable HVAC equipment be stored outside of the building.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**M 242 23  
Adjourn**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to adjourn at 1:45 p.m.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Respectfully submitted,**

**Tracy N. Torbert  
Clerk of the Council**

*{An audio recording of this meeting is available on the County's website.}*